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Supreme Court, U. S.
FILED
JUN 2 1916
JAMES D. MAHER
CLERK

Original No. 2 . OCTOBER TERM, 1915.

IN THE

Supreme Court of the United States

COMMONWEALTH OF VIRGINIA, Complainant,

vs.

STATE OF WEST VIRGINIA, Defendant.

NOTICE OF MOTION FOR WRIT OF EXECUTION.

JOHN GARLAND POLLARD,
Attorney General of Virginia.

ALLEN, LANE & SCOTT, PRS., PHILADELPHIA.

In the Supreme Court of the United States.

ORIGINAL NO. . OCTOBER TERM, 1915.

Commonwealth of Virginia, Complainant,

vs.

State of West Virginia, Defendant.

To the Honorable A. A. Lilly, Attorney General of West Virginia, Charleston, W. Va.

Please take notice that in the suit of Commonwealth of Virginia *vs.* State of West Virginia, pending in the Supreme Court of the United States, at Washington, D. C., the complainant will, on Monday, the fifth day of June, 1916, move the said Court to issue its writ of execution, directed to the Marshal of the said Court against the State of West Virginia, directing the Marshal of the said Court to levy upon the property of the State of West Virginia, subject to such levy, for the satisfaction of the decree and judgment entered on the fourteenth day of June, 1915, in the above entitled cause; and that the Commonwealth of Virginia shall be granted such other and further relief in the premises as may be just and meet; and the said motion will be based on the decree and judgment entered as aforesaid and on the facts stated in the annexed petition and exhibits filed therewith.

Respectfully,

COMMONWEALTH OF VIRGINIA,
By
JNO. GARLAND POLLARD,
Attorney General of Virginia.

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Original No. 2 . **OCTOBER TERM, 1915.**

IN THE

Supreme Court of the United States

COMMONWEALTH OF VIRGINIA, Complainant,

vs.

STATE OF WEST VIRGINIA, Defendant.

PETITION FOR WRIT OF EXECUTION.

JOHN GARLAND POLLARD,
Attorney General of Virginia.

ALLEN, LANE & SCOTT, PRS., PHILADELPHIA.

In the Supreme Court of the United States.

ORIGINAL NO. . OCTOBER TERM, 1915.

Commonwealth of Virginia, Complainant,

vs.

State of West Virginia, Defendant.

TO THE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:—

The petition of the Commonwealth of Virginia by Jno. Garland Pollard, her Attorney General, shows to the Court that:—

I.

The Commonwealth of Virginia filed a Bill in this Court on leave on February 26th, 1906, against the State of West Virginia praying that West Virginia's proportion of the public debt of Virginia, as it stood prior to 1861, be ascertained and satisfied.

II.

On June 14th, 1915, this Court entered its decree and judgment in the suit as follows:

"SUPREME COURT OF THE UNITED STATES.

"Original No. 2. October Term, 1914.

"*Commonwealth of Virginia, Complainant,*

"vs.

"*State of West Virginia, Defendant.*

"This cause came on to be heard on pleadings and "proofs, the reports of the Special Master and the excep-

"tions of the parties thereto, and was argued by coun-
"sel.

"On consideration whereof, the Court finds that the "defendant's share of the debt of the complainant is as "follows:—

"Principal, after allowing credits as stated, $4,215,-"622.28; interest from January 1st, 1861, to July 1st, "1891, at four per cent. per annum, $5,143,059.18; in-"terest from July 1st, 1891, to July 1st, 1915, at three "per cent. per annum, $3,035,248.04, making a total of "interest of $8,178,307.22, which, added to the principal "sum, makes a total of $12,393,929.50.

"It is therefore now here ordered, adjudged and "decreed by this Court that the complainant, Common-"wealth of Virginia, recover of and from the defend-"ant, State of West Virginia, the sum of $12,393,929.50 'with interest thereon from July 1st, 1915, until paid, "at the rate of five per cent. per annum.

"It is further ordered, adjudged and decreed that "each party pay one-half of the costs.

"JUNE 14th, 1915."

III.

The said judgment and decree has ever since remained and is now unpaid. The State of West Virginia has failed to pay the Commonwealth of Virginia the same or any part thereof, although payment has been respectfully requested by the Commonwealth of Virginia of the State of West Virginia.

IV.

The correspondence showing the request of the Commonwealth of Virginia to the State of West Virginia for the payment of said decree and judgment, and the correspondence relating to a proposed joint conference of the Debt Commissions of the two States, as suggested by the West Virginia Commission, are hereto attached and made a part of this petition.

From said correspondence it will appear:—

That on October 19th, 1915, the Chairman of the Virginia Debt Commission, in pursuance of authority from that body, addressed a letter to the Governor of West Virginia, requesting that provision be made for the payment of said decree and judgment.

That on October 28th, 1915, the Governor of West Virginia replied that he had convened the West Virginia Debt Commission and in conjunction with them had reached the conclusion that it would be to the advantage of both States to have a joint conference of the Commissions of the two States at the earliest date possible.

That on November 12th, 1915, the Chairman of the Virginia Debt Commission, in pursuance of authority from that body, replied suggesting that the proposed joint conference be held on November 23, 1915.

That on November 12th, 1915, the Governor of West Virginia replied by telegram that he would communicate with the members of the West Virginia Commission and would later reply further, which later reply was duly received November 19th, and was to the effect that the West Virginia Commission would probably not be able to have the joint conference or meeting before some time early in December, of which he would advise the Virginia Commission later.

That on December 6th, 1915, no further advice having been received from the Governor of West Virginia, the Chairman of the Virginia Debt Commission addressed another letter to the Governor of West Virginia, expressing the hope that the Virginia Commission might receive a reply at an early date.

To this letter, addressed on December 6th, 1915, to the Governor of West Virginia, no reply has been received.

Wherefore, your petitioner, Commonwealth of Virginia, prays that a writ of execution may issue from this Court, directed to its Marshal, against the State of West Virginia, directing its Marshal to levy upon any property of the State

of West Virginia, subject to such levy for the satisfaction of the said judgment and decree; and for such other and further relief in the premises as shall seem just and meet.

And your petitioner will ever pray, &c.

COMMONWEALTH OF VIRGINIA,
By
JNO. GARLAND POLLARD,
Attorney General of Virginia.

OCTOBER 19, 1915.

Honorable H. D. Hatfield, Governor of West Virginia, Charleston, W. Va.

DEAR SIR:—In the hope that the State of West Virginia would provide for the payment of the amount of the judgment, viz: $12,393,929.50 with interest, entered against it by the Supreme Court of the United States in favor of the State of Virginia, we have postponed making any formal request.

We have recognized and have appreciated the fact that your State may need reasonable time in order to make the financial arrangements necessary for compliance with the decree of the Court; and any request for such delay will be responded to in the spirit which should govern one State in dealing with another.

Nothing, however, having been done by your State, so far as we are advised, we feel constrained to call the matter to your attention.

Action by the Legislature of your State, will, of course, be necessary in order to comply with the Court's decree, and as we are informed unless convened in extraordinary session upon the call of your Excellency, there will be no session of that body until January, 1917. To postpone until then the beginning of such action as may be necessary to carry out the decree of the Court would involve unreasonable delay. We, therefore, on behalf of the State of Virginia which we represent, respectfully request the State of West Virginia to perform the Court's decree, and to that end that your Excellency will, in the exercise of the power vested in you, convene the Legislature of your State in extraordinary session for the purpose of dealing with this important subject and making provision for the payment of the decree.

We will be indebted to you if you will, at your early convenience, communicate your reply to this letter to the undersigned, Chairman of the Virginia Commission, at Front Royal, Virginia.

Very truly yours,

H. H. DOWNING,
Chairman, Virginia Commission.

28" OCTOBER, 1915.

MY DEAR SIR:—Upon the receipt of your very courteous letter of the 19th instant, relative to the payment of the judgment of the Commonwealth of Virginia against the State of West Virginia, recently rendered by the Supreme Court of the United States, I convened the West Virginia Debt Commission, and, in conjunction with them, have reached the conclusion that it would be to the advantage of both States to have a joint conference of the two commissions at the earliest date possible.

In the hope that you will give me your views and wishes, and the views and wishes of your Commission upon this subject, at your earliest convenience, I remain,

Yours sincerely,

(signed) HENRY D. HATFIELD
Governor of West Virginia.

Honorable H. H. Downing, Chairman Debt Commission, Front Royal, Virginia.

WASHINGTON, D. C., November 12, 1915.

Hon. Henry D. Hatfield, Governor of West Virginia, Charleston, W. Va.

DEAR SIR:—I duly received your letter of the 28th ultimo in response to mine of the 19th in relation to the payment of the judgment of the Commonwealth of Virginia against the State of West Virginia recently rendered by the Supreme Court of the United States, and note that, upon consideration thereof, you, in conjunction with the West Virginia Debt Commission had reached the conclusion that it would be to the advantage of both States to have a joint conference of the two Commissions at an early date.

Your letter has been considered by the Virginia Debt Commission and I am instructed by them to say that they will be pleased to meet you and the West Virginia Debt Commission as requested, and receive and consider any communication you may desire to submit; and the Virginia Commission agreeing with your view that this conference should be held at the earliest possible date, I suggest the 23rd day of November at 10 a. m., and The New Willard, Washington, D. C., as the time and place of such meeting.

Respectfully,

(signed) H. H. DOWNING,
Chairman, Virginia Debt Commission.

Kindly send
reply to
Front Royal, Va.

TELEGRAM.

CHARLESTON, W. VA., 11/12/15.

Hon. H. H. Downing,

Your letter of this date to hand and contents noted. I will communicate with you just as soon as I have had opportunity to hear from other members of the West Virginia Commission.

(signed) H. D. HATFIELD.

TELEGRAM.

64 pd. Blue Day Letter.

11/19/15 CHARLESTON, W. VA.

Hon. H. H. Downing, Front Royal, Virginia.

Replying further to your telegram of some days ago, suggesting joint conference of two commissions in Washington on November 23rd, beg to advise that I find it impossible to arrange meeting of West Virginia Commission on that date. Will probably not be able to have meeting before sometime early in December and will advise you later as to date agreeable to West Virginia Commission.

(signed) HENRY D. HATFIELD,
Governor.

Virginia *vs* West Virginia

DECEMBER 6, 1915.

Hon. Henry D. Hatfield, Governor of West Virginia, Charleston, W. Va.

DEAR SIR:—Since your wire of November 19th, I have heard nothing from you with reference to a meeting of the Commissions of Virginia and West Virginia, as requested by you sometime since. Your wire of the 19th of November stated

"Will probably not be able to have meeting before some-
"time early in December. Will advise you later as to date
"agreeable to the West Virginia Commission."

My commission had hoped to hear from you before this and regret that no time, as yet, has been fixed for the conference. May I hope to hear from you at an early date?

Yours very respectfully,
(signed) H. H. DOWNING,
Chairman Va. Commission.

D/K